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Issue date: 16Jul2001

CASE NO. 2000-LHC-1356

OWCP NO. 14-123658

In the Matter of:

GARY C. WILSON,
Claimant,

vs.

JONES STEVEDORING COMPANY,
Permissibly Self-Insured Employer.

Appearances:

Mary Alice Theiler, Esq.
Seattle, Washington

For the Claimant

William M. Tomlinson, Esq.
Portland, Oregon

For the Employer

BEFORE: ALEXANDER KARST
Administrative Law Judge

DECISION AND ORDER AWARDING BENEFITS

This action is brought pursuant to the Longshore and Harbor Workers' Compensation Act (the Act), 33 U.S.C. § 901 *et seq*., by Gary C. Wilson, a 46 year-old longshore worker from the Port of Tacoma, Oregon. Mr. Wilson suffered an admitted neck injury while working for Jones Stevedoring Company (hereinafter Jones Stevedoring), and seeks an award of permanent partial disability and medical expenses. The parties disagree about his average weekly wage, present wage-earning capacity, and entitlement to medical costs for chiropractic and massage therapy.

The following facts are undisputed. Mr. Wilson, born on April 10, 1954, is married and has four children, ages 12 to 20. He graduated from high school in 1972, and has been a longshore worker since 1980. In 1986, he became "B" registered in the Port of Tacoma, and "A" registered in 1991. As an "A" worker, he receives first choice of jobs dispatched daily from the union hall. Although he is qualified to drive equipment, he is not on the "lift list," because that would require him to take driving jobs. Instead, he prefers the flexibility of being able to pick and chose his jobs. He lacks the seniority to be placed on the primary crane list, but he is on the secondary crane list. This gives him a second choice of crane driving jobs after everyone on the primary crane list has been chosen.

On October 15, 1996, Mr. Wilson was working in the Port of Tacoma aboard ship, de-lashing containers for Jones Stevedoring. (TR 45.) While he was bending down to loosen a bar, a co-worker dropped a 75 pound lashing bar, hitting Mr. Wilson on the left side of the head and knocked him to the deck. (TR 46.) He almost lost consciousness and felt numbing pain on one side of his body, and neck pain. He was evacuated by paramedics and taken to the Tacoma General Hospital emergency room. Dr. Robert F. Wachtell, the emergency room physician, diagnosed a complex scalp laceration, with exposed bone, cervical and thoracic strain, and closed head injury. After Mr. Wilson's 9 cm full thickness laceration was sutured, and a CT scan and x-rays proved negative, he was given Vicodin for pain and released the same day.

Mr. Wilson went to his family doctor, Dr. Merrill R. Utt eight days later to have his sutures removed. He complained of aching pain and muscle tension in the neck and upper back, which Dr. Utt thought was secondary to the impact and axial loading. (CX 28 at 334.) Dr. Utt's assessment was mild post-concussive syndrome associated with laceration and strain of the neck region. On November 1, 1996, Dr. Utt referred Mr. Wilson for massage therapy. (CX 28 at 336.)

Dr. D.C. Covey, an orthopaedic surgeon, examined Mr. Wilson at the request of Jones Stevedoring on December 23, 1996. (EX 33 at 136.) Dr. Covey surmised that the impact of the falling lashing bar caused Mr. Wilson's neck to bend severely, resulting in a soft tissue strain. (*Id*. at 140.) Dr. Covey found that Mr. Wilson was not medically stable but was capable of returning to light duty work. (*Id*. at 140.) Dr. Covey's report was forwarded to Dr. Utt, who concurred with its

findings and recommendations. (*Id*. at 144.)

Another medical examination was performed by Dr. Patrick St. Pierre, an orthopaedic surgeon on March 17, 1997. (EX 7 at 30.) Dr. Pierre agreed with Dr. Covey's assessment, and found that Mr. Wilson was not yet medically fixed or stable. (*Id*. at 34.) He ordered an MRI, which showed both cervical and thoracic degenerative disc disease. (*Id*. at 35.) Dr. Pierre believed that further operative intervention was not indicated by the MRI, and recommended the continuation of physical therapy for six to twelve weeks. In his opinion, Mr. Wilson was capable of light duty work with no overhead work, no lifting or carrying over 20 pounds, or prolonged standing or sitting. (*Id*. at 36.)

Dr. Utt referred Mr. Wilson to Dr. Richard N.W. Wohns for a neurosurgical evaluation, which was completed on June 16, 1997. (EX 35.) Dr. Wohns believed Mr. Wilson was suffering from a cervical strain. After wearing a recommended cervical collar, Mr. Wilson returned to Dr. Wohns on June 30, 1997 and reported that he still heard clicking and felt pain when he moved his neck. (EX 35 at 436.) Though the soft cervical collar alleviated Mr. Wilson's neck pain somewhat, Dr. Wohns recommended fusion surgery at the C4-5 level. (Id.)

A second neurological examination was conducted by Dr. Gordon Mulder on September 10, 1997, who found no "surgical abnormality." (EX 37 at 441.) Jones Stevedoring referred Mr. Wilson's medical records to Dr. John E. Dunn for a second assessment. (EX 17.) Dr. Dunn reported on January 29, 1998 that Mr. Wilson's medical records indicated that there was some instability at the C4-5 level, but that fusion surgery was unnecessary. (*Id*.) Dr. Utt recommended the fusion surgery in May 1998, because Mr. Wilson had not improved adequately following conservative treatment. (CX 28 at 353.) Dr. Mulder met with Mr. Wilson again on May 27, 1998. Dr. Mulder's report indicates that a Dr. Moquin also recommended the fusion surgery, but that Mr. Wilson did not want to have the operation. (CX 37 at 447.) Dr. Mulder recommended a cervical halter traction that Mr. Wilson could use at home, and he also provided the name of a "non-aggressive" neurosurgeon "to guide him as to whether surgery might be helpful. . . ." (*Id*.) Dr. Utt testified that Mr. Wilson most likely became medically stationary on July 1, 1998. (CX 51 at 37-40.)

Maximum Medical Improvement

A disability is considered permanent on the date the claimant's condition reaches maximum medical improvement or if the condition has continued for a lengthy period and appears to be of lasting or indefinite duration, as distinguished from one in which recovery merely awaits a normal healing period. *See Watson v. Gulf Stevedore Corp*., 400 F.2d 649 (5th Cir. 1968), cert. denied, 394 U.S. 976 (1969). The treating physician, Dr. Utt, testified that Mr. Wilson was probably medically stationary as of July 1, 1998, although he could not state so with complete authority. Mr. Wilson suggests that he was medically stationary as of May 27, 1998, the day he was examined by Dr. Mulder. Dr. Mulder did not give an opinion as to whether Mr. Wilson had reached the point of maximum medical improvement. As there is no evidence disputing Dr. Utt's testimony on this point, I

find that Mr. Wilson reached the point of maximum medical improvement on July 1, 1998.

Average Weekly Wage

The parties are unable to agree on how to compute Mr. Wilson's average weekly wage because a previous 1995 knee injury prevented him from working a full year prior to the subject injury. Prior to the accident which is the subject of this case, Mr. Wilson suffered a work-related injury to his right knee on August 2, 1995. He underwent surgery on August 24, 1995, which consisted of anterior cruciate ligament reconstruction, a patellar tendon graft, and meniscectomies. Further arthroscopic evaluation was completed on February 1, 1996, which included debridement of the patellar and medial femoral chondyle, and medial plica excision. Just prior to the subject neck injury in October 1996, he was well enough to be working seven to eight shifts per week. But on July 21, 1997, he complained of right knee pain, restricted motion, and swelling. He had another right knee operation on December 2, 1997, which forced him to miss work from December 2, 1997 to January 30, 1998. The carrier paid him $6,476.57 for temporary total disability. He received a payment for a nine percent impairment to his right lower extremity and his claim for longshore benefits for his knee injury was closed. Normally under Section 10(a), the average weekly wage is determined from the actual wages the claimant earned in the 52 week period immediately prior to his injury. *See* 33 U.S.C. § 910(a). Since Mr. Wilson only worked 29 weeks and 3 days in the year prior to his injury due to his August 1995 knee injury, the parties agree that Section 10(c), not Section 10(a), should be used to determine his average weekly wage. The parties also agree that Mr. Wilson earned $1,813.52 in the 30 weeks that he worked, (TR 12-13), and that Mr. Wilson earned $99,634.34 from August 5, 1994 to August 4, 1995, the day of his knee injury, for an average weekly wage of $1,916.05.

Mr. Wilson's position at the time of the hearing and in his pre-hearing statement was that his average weekly wage should be $1,916.05 (based on his 1994 to 1995 wages), but in his closing brief he presents three methods by which his average weekly wage can be calculated. (*See* Clmnt's Clsng Brf at 16-17.) The first method is to use the weekly wage from his 1994 to 1995 wages, as he previously claimed. The second method is to use his average weekly wage from the 30 weeks he worked in 1996, which he now contends is $1,995.07 instead of $1,813.52. The third method, which was not described in either his pre-trial statement or opening argument, is to base his wages on thirteen similarly situated co-workers, whose pay records are summarized in CX 24. Mr. Wilson's proposed average weekly wage calculation are all unacceptable to Jones Stevedoring, which urges me to accept the $1,813.52 figure.

While the parties previously agreed that Mr. Wilson's actual wages prior to his injury lead to an average weekly wage of $1,813.52, Mr. Wilson's closing brief points out that his payroll records show that he actually earned $58,714.81, (CX 10 at 101), and that therefore, the correct average weekly wage during that period is $1,995.07. Indeed, his payroll records, which are also submitted by Jones Stevedoring, (EX 26), do show that he earned $58,714.81 in 1996. The records also show that he did not work at all in 1996 following his October 15, 1996 injury, and that he did not work in the months of

October, November or December of 1995 due to his knee

injury. Therefore, in the one year period prior to his injury, Mr. Wilson did actually earn $58, 714.81 in 29 weeks and 3 days. His actual average weekly wage during that time is therefore $1,995.07, as Mr. Wilson argues.

Jones contends that since Mr. Wilson stipulated to the $1,813.52 figure, he should be bound to it. As a general rule, stipulations made by parties are binding upon those who made them. *Littrell v. Oregon Shipbuilding Co.*, 17 BRBS 84 (1985). However, stipulations of fact are not binding until they are received and accepted. 29 C.F.R. § 18.51 provides that:

> The parties may by stipulation in writing at any stage of the proceeding, or orally made at hearing, agree upon any pertinent facts in the proceeding. It is desirable that the facts be thus agreed upon so far as and whenever practicable. Stipulations may be received in evidence at a hearing or prior thereto, and when received in evidence, shall be binding on the parties thereto.

(Emphasis added.) In this case, I find that the parties' stipulation concerning Mr. Wilson's 1996 average weekly wage is not supported by his payroll records, and is therefore rejected.

Jones Stevedoring is now in a quandary since it presented compelling arguments for basing Mr. Wilson's average weekly wage on his actual wages after his knee injury, which it turns out were higher than what Mr. Wilson originally claimed. First, it argued that Mr. Wilson's actual earnings are representative of his true wage earning capacity because he worked regularly and continuously during this period. He worked so many hours in fact that his own physician warned him that he was working too much. (See EX 1 at 20.) Second, the wages from 1994 to 1995 do not take into account the effects of his disabling knee injury, while his wages from 1996 do take into account any residual impairment. Jones also argues against using the wages from thirteen of Mr. Wilson's peers, since this issue was not raised before or during the hearing, and was therefore not adequately briefed.

In my view, Jones Stevedoring's arguments for basing Mr. Wilson's average weekly wage on the actual wages he earned prior to his 1996 injury are persuasive, even though that figure is higher than what Jones previously assumed. I find that his average weekly wage is $1,995.07.

Permanent Partial Disability

An award for permanent partial disability not covered by the schedule is based on the difference between the claimant's pre-injury average weekly wage and his post-injury wage-earning capacity. 33 U.S.C. § 908(c)(21)(h); *Richardson v. General Dynamics Corp*., 23 BRBS (1990); *Cook v. Seattle Stevedoring Co.*, 21 BRBS 4,6 (1988).

Post-Injury Wage-Earning Capacity

Section 8(h) of the Act provides that a claimant's wage-earning capacity shall be his actual post-injury earnings if these earnings fairly and reasonably represent his wage-earning capacity. Only if such earnings do not represent the claimant's wage-earning capacity, an amount which reasonably represents the claimant's wage-earning capacity needs to be calculated. 33 U.S.C. § 908(h). Some of the factors to be considered in determining whether a claimant's post-injury wages fairly and reasonably represent his post-injury wage-earning capacity include claimant's physical condition, age, education, industrial history, the beneficence of a sympathetic employer, the claimant's earning power on the open market and any other reasonable variables that could form a factual basis for the decision. *See Darcell v. FMC Corp., Marine and Rail Equip. Division*, 14 BRBS 294 (1981); *Devillier v. National Steel & Shipbuilding Co.,* 10 BRBS 649 (1979). Should a claimant's post-injury work be found to be continuous and stable, the claimant's post-injury earnings are more likely to reasonably and fairly represent the claimant's wage-earning capacity. *See Todd Shipyards Corp. v. Allan*, 666 F.2d 399 (9th Cir. 1982), cert. denied, 459 U.S. 1034 (1982). Relevant questions include whether the work is suitable, claimant is physically capable of it, and claimant has the seniority to stay in the job. *See Bethard v. Sun Shipbuilding and Dry Dock Co.*, 12 BRBS 691 (1980). If it is found that a claimant's current employment meets the aforementioned standards, the open market factor is irrelevant and the claimant may not be economically disabled even though he continues to suffer some physical impairment as a result of his injury. *Darcell, supra*.

Mr. Wilson contends that his actual post-injury wages do not fairly and reasonably represent his post-injury earning capacity. He claims that he has been unable to take advantage of all the work available in the port because he must pass up certain jobs that he was capable of performing before his injury. Specifically, he claims that before his injury his average earnings were well above that of his co-workers, but that he earned only 89% of their earnings in 1999 and 88% in 2000. (See CX 25 at 327.) However, from 1989 to 1994 he averaged between 45% to 77% more than these individuals. Therefore, he claims that his earning capacity shows a decrease of approximately 25%.

Mr. Wilson was paid for 2,565 hours in 1990; 2,714 hours in 1991; 2,782 hours in 1992; 2,687 hours in 1993; and 2,870 hours in 1994. However, he only worked 1920 hours in 1995 before he was disabled on account of his knee injury, and only 1,513 hours in 1996 before he was hurt by the falling lashing rod. He returned to longshoring on July 1, 1998, and worked 1,149.25 hours the remainder of the year for an average of 44 hours per week, and earned $46,166 for an average weekly wage of $1,775. (EX 26 at 73-74.) In 1999, he worked a total of 2,562 hours and earned $105,035 for an average weekly wage of $2,020. (CX 10 at 126.) In the first two quarters of 2000, Mr. Wilson worked 1,372 hours, an average of 52.77 hours per week, and earned $56,009 for an average weekly wage of $2,154. Thus, Mr. Wilson's hours since returning to work have consistently averaged almost

50 hours per week. He is able to work in many of the same job categories that he did before his injury, (*See* EX 26 at 95-100), which are lashing, tractor driving, hold man and crane operator. In addition, his seniority allows him to take even higher paying jobs, such as walking boss. (EX 26 at 100.) These facts lead me to conclude that Mr. Wilson's work and hours are regular, continuous and stable, that he is physically capable, and that he has the seniority to stay in these jobs.

Jones Stevedoring also argues that the 13 workers selected by Mr. Wilson are not similarly situated. It subpoenaed the records of 13 other employees whose annual salaries over the years have been closer to Mr. Wilson's salary. A comparison of Mr. Wilson's earnings to these 13 employees shows that Mr. Wilson earned more than they in the years prior to his injury, and still earned more in 1999 and 2000.

On balance, I find that Mr. Wilson's actual wages are a fair representation of his post-injury earning-capacity. Using his average weekly wages from 1998, 1999 and 2000 as a measure of his post-injury wage-earning capacity, I find that his 1998 wage-earning capacity was $1,775; his 1999 wage-earning capacity was $2,020; and his wage-earning capacity for the year 2000 and continuing is $2,154.

Reduction for Inflation

When post-injury wages are used to establish a claimant's wage-earning capacity and determine his permanent partial disability benefits, sections 8(c)(21) and 8(h) of the Act require that the claimant's post-injury wage-earning capacity be adjusted to account for inflation to represent the wages that the post- injury job paid at the time of claimant's injury. *Quan v. Marine Power & Equipment Co.*, 30 BRBS 124, 127 (BRB 1996); *Richardson v. General Dynamics Corp.*, 19 BRBS 48, 49 (BRB 1986).

The National Average Weekly Wage (NAWW) should be used to factor out inflation when "the actual wages paid at the time of injury in claimant's post-injury job are unknown." *Richardson v. General Dynamics Corp*., 23 BRBS 327, 331 (1990). But when the evidence establishes the actual wage a claimant's post-injury job paid at the time of injury, rather than using the NAWW, the adjustment for inflation in determining the effect of the injury on wage-earning capacity is made simply by comparing the average weekly wage with the post-injury job's actual wage at the time of injury. *Kleiner v. Todd Shipyards Corp*., *supra* at 298 ("We have repeatedly held that the Act requires comparison of actual wages at the time of injury with the wages the post-injury job paid at the time of injury"); *Bethard v. Sun Shipbuilding and Dry Dock Co.*, *supra* at 695 ("A proper determination of claimant's loss of wage-earning capacity encompasses a comparison of claimant's average weekly wage with the wages that claimant's post-injury job paid at the time of the injury"); *Turney v. Bethlehem Steel Corp*., 17 BRBS 232, 238 (1985) (remanding to calculate the claimant's post-injury wage-earning capacity by comparing the wage to what the post-injury job originally paid at the time of injury). Thus, it is clear that only when there is no evidence to determine what the post-injury job paid

at the time of injury is the NAWW applied to adjust the claimant's post-injury wages downward. Here, neither party has presented evidence on whether the longshore hourly rate has increased since 1996, so the NAWW increases must be applied to Mr. Wilson's post-injury earnings.

YEAR	NAWW	INFLATION SINCE 1996	ACTUAL WEEKLY WAGES	ADJUSTED WEEKLY WAGES*
1996	$400.53	--	$1,995	$1,995
1998	$435.88	8.83%	$1,775	$1,631
1999	$450.64	12.51%	$2,020	$1,795
2000	$466.91	16.57%	$2,154	$1,848

* Formula: Adjusted Wages = Actual Wages ÷ (1 + Inflation).

Thus, Mr. Wilson suffered a loss in weekly earnings of $364 in 1998, $200 in 1999, and $147 in 2000. Accordingly, he is entitled to compensation in the amount of $242.67 per week for 1998, $133.33 per week for 1999, and $98 per week for 2000 and continuing.

Temporary Disability

The parties agree that Mr. Wilson is entitled to temporary total disability compensation from October 15, 1996 to April 3, 1997; and temporary partial disability compensation from April 4, 1997 to December 1, 1997; and from January 31, 1998 to July 1, 1998. Mr. Wilson worked 34 weeks and 3 days between April 1997 and December 1997 and earned $29,014.36 for an average weekly wage of $842,71. In the 20 week period between January 31, 1998 through June 30, 1998, he earned $27,678.18 for an average weekly wage of $1,383.91.

A claimant is entitled to two-thirds of the difference between his average weekly wages before the injury and his wage-earning capacity after the injury during periods of temporary partial disability. 33 U.S.C. § 908(e). There is no dispute that, during these periods, Mr. Wilson's actual wages are a fair and accurate measure of his wage-earning capacity; and I so find. Therefore, Mr. Wilson is entitled to temporary partial compensation at the weekly rate of $768.24 for the period from April 4, 1997 to December 1, 1997. He is also entitled to temporary partial compensation at the weekly rate of $407.44 during the period from January 31, 1998 to July 1, 1998.

Medical Treatment

Mr. Wilson seeks a finding that Jones Stevedoring is responsible for past and future medical care, specifically for chiropractic treatment and massage therapy.

In order for a medical expense to be assessed against the employer, the expense must be both reasonable and necessary. *Parnell v. Capitol Hill Masonry*, 11 BRBS 532, 539 (1979). According to the regulations, "physicians" include chiropractors "to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation shown by x-ray or clinical findings." 20 C.F.R. § 702.404. The Board has held that § 702.404 does not specifically provide for any other treatment performed by chiropractors besides manual manipulation, even if such treatment is reasonable and necessary. *Gay Nell Bang v. Ingalls Shipbuilding, Inc.*, 32 BRBS 183 (1998) (The plain and literal language of the regulation is that a chiropractor's "only" reimbursable service is "limited" to treatment consisting of manual spinal manipulation to correct a subluxation shown by x-ray or clinical findings.) Thus, any chiropractic treatment a claimant receives aside from manual manipulations to the spine to treat a subluxation are not be compensable.

Dr. Utt referred Mr. Wilson to physical therapy on October 23, 1996. (CX 28 at 335.) He specifically referred Mr. Wilson to massage therapy on November 1, 1996. (*Id*. at 336.) Dr. Utt and Mr. Wilson discussed the possibility of chiropractic care on November 11, 1996. Dr. Utt testified that Mr. Wilson requested chiropractic care and he (Dr. Utt) provided "a referral for somebody close to his home. . ." (CX 51 at 43; CX 28 at 337.) Dr. Utt also testified that he didn't know if Mr. Wilson was suffering from subluxations of the cervical spine, because he wasn't a chiropractor, and "that's a term they use." (CX 51 at 44.) He testified that the chiropractic treatment was not medically necessary. (CX 51 at 45.) His definition of medically necessary was that "without that treatment, it would be injurious to the patient or fail to effect a recovery." (CX 51 at 47.) Dr. Utt referred Mr. Wilson for massage therapy to help him with his muscle spasms. (*Id.* at 20.) But he said he could not tell whether the massage therapy was curative or palliative, and he is not sure if it was either mandatory or medically necessary. (*Id*. at 45.) Mr. Wilson's chiropractor, Dr. MaryJo Thola, diagnosed him as having a cervical sprain/strain, thoracic, cervical, and sacroiliac subluxation. (CX 52 at 16.) She defined subluxation as "an abnormal positioning of the bony portion of the spine or joint that doesn't allow motion, that increases interference on the nerve system, that causes irritation of the nerve and eventually inflammation to the area, which further causes restriction of the joint or area." (CX 52 at 7.) Following his December 23, 1996 examination of Mr. Wilson, Dr. Covey reported that chiropractic treatment would be palliative, but not curative. (EX 33 at 141.) Dr. Utt concurred with Dr. Covey's findings and recommendations. (EX 33 at 144.)

Mr. Wilson claims the chiropractic treatment and massage therapy was beneficial and that it helped him recover from his injuries, and provided relief of symptoms. However, he ceased massage and chiropractic treatment in March 1997 after Jones Stevedoring refused to pay for the regimen. On April 16, 1997, the claims examiner for the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP) found that chiropractic treatment after December 23, 1996 was palliative and not curative, based on the opinions of Drs. Utt and Covey. He further found that the massage therapy was not compensable.

It is clear that Dr. Utt wrote referrals for Mr. Wilson to have massage therapy and chiropractic

evaluation and treatment. It is also clear that he was hopeful such treatment could improve Mr. Wilson's range of motion and neck spasms. (CX 51 at 32-33, 48.) As such, I find that the chiropractic treatment and massage therapy to be reasonable and necessary, and appropriate for his injury. Future medical care is compensable only to the extent that Mr. Wilson's treating physician specifically finds such therapy to be reasonable and necessary.

ORDER

Accordingly, it is ordered:

1. Jones Stevedoring Co. shall pay to Gary C. Wilson for his temporary partial disability from April 4, 1997 to December 1, 1997 based on the weekly rate of $768.24.

2. Jones Stevedoring Co. shall pay to Gary C. Wilson for his temporary partial disability from January 31, 1998 to July 1, 1998 at the weekly rate of $407.44.

3. Jones Stevedoring Co. shall pay to Gary C. Wilson for his permanent partial disability in 1998 at the weekly rate of $242.67.

4. Jones Stevedoring Co. shall pay to Gary C. Wilson for his permanent partial disability in 1999 at the weekly rate of $133.33.

5. Jones Stevedoring Co. shall pay to Gary C. Wilson for his permanent partial disability in 2000 and continuing at the weekly rate of $98.

6. Jones Stevedoring Co. shall pay for Gary C. Wilson's unpaid chiropractic treatment and massage therapy performed by Dr. Mary Jo Thola, DC, and Mary Hettich.

7. The District Director shall make all calculations necessary to carry out this order.

8. Claimant's counsel may file and serve a fee and cost petition in compliance with 20 CFR § 702.132 within 20 days after the filing of this order. He shall thereupon discuss the petition with other counsel with a view to reaching an agreement on fees and costs. No later than 15 days after the filing of the fee petition, claimant's counsel shall file written notice of what, if any, agreements have been reached. Within 15 days thereafter, respondent's counsel shall file detailed objections to any unresolved items. Claimant's counsel may reply to the objections within 10 days.

A
ALEXANDER KARST

Administrative Law Judge

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